

Maine Revised Statutes

Title 36: TAXATION

Chapter 358: SERVICE PROVIDER TAX (HEADING: PL 2003, c. 673, Pt. V, §25 (new); §29 (aff))

§2551. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

1. Audio media; audio equipment. "Audio media" means prerecorded magnetic tapes used for noncommercial playback of sound on audio equipment. "Audio equipment" means equipment used to play audio media and equipment used for recording sound for subsequent noncommercial playback.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

1-A. Community support services for persons with mental health diagnoses. "Community support services for persons with mental health diagnoses" means rehabilitative services provided to adults at least 18 years of age or to emancipated children that are provided in the context of a supportive relationship pursuant to an individual support plan that promotes a person's recovery and integration of the person into the community and that sustain the person in that person's current living situation or another living situation of that person's choice. "Community support services for persons with mental health diagnoses" includes only those services provided by a designated community support services provider licensed by and operating under a contract with the Department of Health and Human Services for such services, whether the provider is reimbursed through participation in the MaineCare program or with state grant funds. "Community support services for persons with mental health diagnoses" includes only those services provided to persons with mental health diagnoses.

[2007, c. 539, Pt. DDD, §1 (AMD) .]

1-B. Community support services for persons with intellectual disabilities or autism. "Community support services for persons with intellectual disabilities or autism" means services:

A. That are provided by community-based agencies to children or adults with intellectual disabilities or autism and include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive living skills; and [2011, c. 542, Pt. A, §136 (AMD).]

B. That take place in a nonresidential setting separate from the home or facility in which the child or adult resides, except when a physician has ordered that such services be provided in the child's or adult's home, and focus on enabling the child or adult to attain or maintain maximum functional levels.

[2005, c. 386, Pt. S, §1 (NEW); 2005, c. 386, Pt. S, §9 (AFF).]

"Community support services for persons with intellectual disabilities or autism" includes only those services provided by designated agencies under a contract with the Department of Health and Human Services.

[2011, c. 542, Pt. A, §136 (AMD) .]

1-C. Ancillary service. "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance, vertical service and voice mail service.

[2007, c. 627, §55 (NEW) .]

1-D. Conference bridging service. "Conference bridging service" means an ancillary service that links 2 or more participants in an audio or video conference call and may include the provision of a telephone number. "Conference bridging service" does not include the telecommunications services used to reach the conference bridge.

[2007, c. 627, §56 (NEW) .]

1-E. Detailed telecommunications billing service. "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

[2007, c. 627, §57 (NEW) .]

1-F. Directory assistance. "Directory assistance" means an ancillary service of providing telephone number information or address information or both.

[2007, c. 627, §58 (NEW) .]

1-G. Adult developmental services facility. "Adult developmental services facility" means a facility that provides to an adult with an intellectual disability or autism any support or assistance that is provided, licensed or funded in whole or in part by the Department of Health and Human Services pursuant to Title 34-B, chapter 5 or 6.

[2011, c. 542, Pt. A, §137 (NEW) .]

1-H. Group residential services for persons with brain injuries. "Group residential services for persons with brain injuries" means services provided to adults with acquired brain injuries, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living provided by designated agencies under a contract with the Department of Health and Human Services.

[2013, c. 368, Pt. OOOO, §1 (NEW) .]

2. Extended cable and satellite television services. "Extended cable and satellite television services" means all cable and satellite television service that is in addition to the minimum service that can be purchased from a cable or satellite television supplier, including the use of associated equipment for which a charge is made. It does not include installation of the associated equipment for which a separate charge is levied.

[2005, c. 12, Pt. TTT, §2 (AMD); 2005, c. 12, Pt. TTT, §4 (AFF) .]

3. Fabrication services. "Fabrication services" means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production.

[2009, c. 434, §28 (AMD) .]

4. Furniture. "Furniture" means movable items that are intended to make a room or establishment useful for human habitation.

A. "Furniture" includes:

(1) Living room furniture, including, but not limited to, sofas, love seats, loungers, recliners, chairs, end tables, coffee tables, curio cabinets, home entertainment centers, book shelves and floor and table lamps;

(2) Bedroom furniture, including, but not limited to, headboards, footboards, bed frames, mattresses, box springs, dressers, chests of drawers, mirrors, armoires, nightstands, bunk beds, roll-away beds and chests;

- (3) Baby furniture, including, but not limited to, cribs, dressers and changing tables;
- (4) Dining room furniture, including, but not limited to, tables, chairs, dinette sets, hutches and dry sinks;
- (5) Patio and outdoor furniture, including, but not limited to, tables, chairs, umbrellas, porch swings and gliders;
- (6) Office furniture, including, but not limited to, desks, chairs, tables, workstations, movable partitions, shelving, file cabinets, coat racks and couches; and
- (7) Home electronic devices, including home appliances, home computers, televisions, stereos and radios. [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

B. "Furniture" does not include:

- (1) Items that are affixed to real property such as sinks, toilets, built-in cabinets or light fixtures; or
- (2) Furnishings such as carpeting, artwork, draperies or blinds. [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

5. Home service provider. "Home service provider" means the facilities-based carrier or reseller with which a customer contracts for the provision of mobile telecommunications services.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

5-A. International telecommunications service. "International telecommunications service" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. For purposes of this subsection, "United States" includes a territory or possession of the United States.

[2007, c. 627, §59 (NEW) .]

5-B. Interstate telecommunications service. "Interstate telecommunications service" means a telecommunications service that originates in one state, territory or possession of the United States and terminates in a different state, territory or possession of the United States. For purposes of this subsection, "state" includes the District of Columbia.

[2007, c. 627, §60 (NEW) .]

6. Mobile telecommunications services. "Mobile telecommunications services" means commercial mobile radio service as defined in 47 Code of Federal Regulations, Section 20.3 as in effect on June 1, 1999. For purposes of sourcing, "mobile telecommunications services" does not include air-ground radiotelephone service as defined in 47 Code of Federal Regulations, Section 22.99 as in effect on June 1, 1999.

[2005, c. 218, §32 (AMD) .]

7. Network elements.

[2007, c. 627, §61 (RP) .]

7-A. Nonprofit. "Nonprofit" refers to an organization that has been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c) of the Code.

[2005, c. 218, §33 (NEW) .]

7-B. Home support services. "Home support services" means services provided to adults with intellectual disabilities or autism, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living. These services include only those services provided by designated agencies under a contract with the Department of Health and Human Services and:

A. May include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but does not include the cost of the meals themselves; [2005, c. 386, Pt. S, §2 (NEW); 2005, c. 386, Pt. S, §9 (AFF).]

B. If specified in the adult's care plan, may include such housekeeping chores as bed making, dusting and vacuuming that are incidental to the care furnished, or are essential to the health and welfare of the adult; and [2007, c. 539, Pt. DDD, §3 (AMD).]

C. May be provided by a provider unrelated to the adult or by an adult relative other than an adult recipient's spouse, but may not be provided in the same setting where residential training is provided. [2007, c. 539, Pt. DDD, §3 (AMD).]

[2011, c. 542, Pt. A, §138 (AMD) .]

8. Place of primary use. "Place of primary use" means the street address representative of where a customer's use of mobile telecommunications services primarily occurs, which must be either the residential street address or the primary business street address of the customer and must also be located within the licensed service area of the home service provider. For purposes of determining the place of primary use, "customer" means the person or entity that contracts with the home service provider for mobile telecommunications services or, if the end user of such services is not the contracting party, the person that is the end user of such services. The term "customer" does not include a reseller of mobile telecommunications services or a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

9. Prepaid calling service. "Prepaid calling service" means the right to access exclusively telecommunications services that must be paid for in advance and that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

10. Private nonmedical institution or personal home care. "Private nonmedical institution or personal home care" means a person licensed by the Department of Health and Human Services to provide private nonmedical institution or personal home care services to 4 or more MaineCare-eligible and other residents in single or multiple facilities under a written agreement with the Department of Health and Human Services. "Private nonmedical institution or personal home care" does not include a health insurance organization, hospital, nursing home or community health care center.

[2013, c. 331, Pt. C, §12 (AMD) .]

11. Private nonmedical institution or personal home care services. "Private nonmedical institution or personal home care services" means services, including food, shelter and treatment, that are provided by a private nonmedical institution or personal home care.

[2013, c. 331, Pt. C, §13 (AMD) .]

12. Production. "Production" means an operation or integrated series of operations engaged in as a business or segment of a business that transforms or converts personal property by physical, chemical or other means into a form, composition or character different from that in which it originally existed. "Production"

includes film production. "Production" includes manufacturing, processing, assembling and fabricating operations that meet the definitional requisites, including biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology. "Production" does not include biological processes except as otherwise provided by this subsection, wood harvesting operations, the severance of sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, or activities such as cooking or preparing drinks, meals, food or food products by a retailer for retail sale.

[2005, c. 332, §15 (AMD) .]

13. Reseller. "Reseller," when used in relation to mobile telecommunications services, means a provider that purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of or integrates the purchased services into mobile telecommunications services. "Reseller" does not include a serving carrier with which a home service provider arranges for services to its customers outside the home service provider's licensed service area.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

13-A. Residential training services.

[2007, c. 539, Pt. DDD, §4 (RP) .]

14. Rural community health center. "Rural community health center" means a person that delivers, or provides facilities for the delivery of, comprehensive primary health care in a place or territory that is classified as rural according to the most recent federal decennial census.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

15. Sale price. "Sale price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the cost of materials used, labor or service cost, interest, losses and any other expense of the seller. "Sale price" includes any consideration for services that are a part of a sale. "Sale price" does not include:

A. Discounts allowed and taken on sales; [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

B. Allowances in cash or by credit made upon the return of services pursuant to warranty; [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

C. The price of services rejected by customers when the full sale price is refunded either in cash or by credit; [2007, c. 438, §54 (AMD).]

D. The amount of any tax imposed by the United States or the State on or with respect to the sale of a service, whether imposed upon the seller or the consumer; or [2007, c. 438, §54 (AMD).]

E. The cost of transportation from the service provider's place of business or other point from which shipment is made directly to the purchaser, as long as those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States Postal Service. [2007, c. 438, §54 (NEW).]

[2007, c. 627, §62 (AMD) .]

16. School. "School" means a public or incorporated nonprofit elementary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank.

[2007, c. 438, §55 (AMD) .]

17. Service provider. "Service provider" means a person who sells one or more of the services listed in section 2552.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

18. Serving carrier. "Serving carrier," when used in relation to mobile telecommunications services, means a facilities-based carrier providing mobile telecommunications services to a customer outside a home service provider's licensed service area.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

19. Telecommunications equipment. "Telecommunications equipment" means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. "Telecommunications equipment" includes all transmission media that are used or capable of being used in the provision of 2-way interactive communications, including, without limitation, copper wire, coaxial cable and optical fiber, except those transmission media designed and primarily used to transmit electricity. "Telecommunications equipment" does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

[2007, c. 437, §13 (AMD) .]

20. Telecommunications services.

[2007, c. 627, §63 (RP) .]

20-A. Telecommunications services. "Telecommunications services" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between or among points. "Telecommunications services" includes transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether the service is referred to as "Voice over Internet Protocol" services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications services" does not include:

A. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser when the purchaser's primary purpose for the underlying transaction is to obtain the processed data or information; [2007, c. 627, §64 (NEW) .]

B. Installation or maintenance of wiring or equipment on a customer's premises; [2007, c. 627, §64 (NEW) .]

C. Tangible personal property; [2007, c. 627, §64 (NEW) .]

D. Advertising, including, but not limited to, directory advertising; [2007, c. 627, §64 (NEW) .]

E. Billing and collection services provided to 3rd parties; [2007, c. 627, §64 (NEW) .]

F. Internet access service; [2007, c. 627, §64 (NEW) .]

G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of those services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service as defined in 47 United States Code, Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 Code of Federal Regulations, Section 20.3; [2007, c. 627, §64 (NEW).]

H. Ancillary services; or [2007, c. 627, §64 (NEW).]

I. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ringtones. [2007, c. 627, §64 (NEW).]

[2007, c. 627, §64 (NEW).]

20-B. Vertical service. "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services and offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections. "Vertical service" includes conference bridging service.

[2007, c. 627, §65 (NEW).]

21. Video media; video equipment. "Video media" means prerecorded magnetic tapes used for noncommercial playback of images and sound on video equipment, and other electronic audio and video media that provide for noncommercial interactive utilization by a person or persons, including digital video discs. "Video equipment" means equipment used to play video media, equipment used for recording images and sound for subsequent noncommercial playback and equipment used for noncommercial interactive utilization of electronic audio and video media.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

21-A. Voice mail service. "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include a vertical service that the customer may be required to have in order to use the voice mail service.

[2007, c. 627, §66 (NEW).]

SECTION HISTORY

2003, c. 673, §V25 (NEW). 2003, c. 673, §V29 (AFF). 2005, c. 12, §§VV1, TTT2 (AMD). 2005, c. 12, §TTT4 (AFF). 2005, c. 218, §§32, 33 (AMD). 2005, c. 332, §15 (AMD). 2005, c. 386, §§S1-3 (AMD). 2005, c. 386, §S9 (AFF). 2007, c. 437, §13 (AMD). 2007, c. 438, §§53-55 (AMD). 2007, c. 539, Pt. DDD, §§1-4 (AMD). 2007, c. 627, §§55-66 (AMD). 2009, c. 434, §28 (AMD). 2011, c. 542, Pt. A, §§136-138 (AMD). 2013, c. 331, Pt. C, §§12, 13 (AMD). 2013, c. 368, Pt. OOOO, §1 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to

change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.